

**REMARKS**

In the Office Action the Examiner noted that claims 14-26 are pending in the application, and the Examiner rejected all claims. By this Amendment, claims 14 and 25 have been amended. Support for the claim amendments can be found at least in paragraphs [0021]-[0022] of the specification, as well as in Figure 1, and no new matter has been presented. Thus, claims 14-26 remain pending in the application. The Examiner's rejections are traversed below, and reconsideration of all rejected claims is respectfully requested.

**Entry of Amendment Under 37 C.F.R. §1.116**

The Applicant requests entry of this Rule 116 Response because: the amendments were not earlier presented because the Applicants believed in good faith that the cited references did not disclose the present invention as previously claimed; the amendments of claim 14 and 25 should not entail any further search by the Examiner since no new features are being added and no new issues are being raised; and the amendments do not significantly alter the scope of the claim, and place the application at least into a better form for purposes of appeal. No new features or new issues are being raised.

The Manual of Patent Examining Procedures sets forth in Section 714.12 that "any amendment that would place the case either in condition for allowance or in better form for appeal may be entered." Moreover, Section 714.13 sets forth that "the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

**Claim Rejections Under 35 USC §102**

In item 4 on pages 3-6 of the Office Action the Examiner rejected claims 14-26 under 35 U.S.C. §102(3) as being anticipated by U.S. Patent No. 6,378,625, issued to Oom et al. (hereinafter referred to as "Oom"). The Applicants respectfully traverse the Examiner's rejections of these claims.

Claim 14 of the present application, as amended, recites "administering physical resources for a data transmission to user equipment by a first device at a first hierarchy within

the hierarchical network architecture, the first device providing a connection interface to the user equipment.” Therefore, the recited first device of the first hierarchy controls the physical resources assigned to it for data transmissions to the user equipment, and also provides the connection interface to the user equipment. The Applicants respectfully that Oom does not disclose at least this feature of the present application.

Oom discloses a method of re-homing from a first radio network controller (RNC) to a second RNC when the first RNC becomes overloaded and/or automatic resource sharing between/among RNCs when one RNC becomes overloaded (Abstract). In this method, a managing/controlling entity receives load measuring reports from the RNCs and analyzes them. Therefore, the base stations 110 are at a lower hierarchy than the RNCs 115, which are at a lower hierarchy than the managing/controlling entities 125. The RNCs 115 each include mobile connection services (MCS) 215 which control the radio connection to specific user equipment 120. “Specifically, the MCS 215 requests radio resources from the BRH 220 that are needed for a radio connection” (Column 5, Lines 20-26). Thus, the physical resources for data transmission to user equipment in Oom are administered by the RNCs of the higher hierarchy.

Therefore, Oom does not disclose or suggest a first device of a first hierarchy administering physical resources for a data transmission to user equipment, and providing a connection interface to the user equipment. Oom apparently discloses that the base stations 110 provide a radio connection with the user equipment 120, and the RNCs 115 administer the resources (Figure 2).

Further, Oom discloses that the user equipment 120 transmits measurement reports to the RNCs 115. As shown in Figure 2, the connection is from the user equipment 120 to the base station 110 to the RNC 115. This clearly shows that in Oom the base station 110 is a passive device and simply acts as a repeater. This is in direct contrast to administering physical resources for a data transmission to user equipment by a first device at a first hierarchy within the hierarchical network architecture, the first device providing a connection interface to user equipment, as recited in claim 14 of the present application. In one example and non-limiting embodiment enabled by claim 14 of the present application, network devices that belong to higher network hierarchies do not have, or have restricted, knowledge of operational relationships such as load relationships within the network. This is not so in Oom, which discloses a network architecture whereby network devices that belong to higher network hierarchies always have knowledge of operational relationships such as the load relationships within the network. In Oom, measurement reports are transmitted to, and an eventual analysis is

performed by, a Radio Network Manager which is located centrally within the communications system. This entails more control signaling between different network nodes and a central network managing node requiring a high amount of processing capabilities, as well as an increase in the time a network node has to wait before it receives any feedback from the Radio Network Manager. This is in contrast to the example embodiment enabled by claim 14 of the present application, wherein load information from devices which do not act simply as signal relaying devices. Control signaling is therefore not propagated throughout the network to a central location, waiting times are reduced, control of a transmission is performed locally at the point where such a transmission occurs, and control of a transmission is achieved without the requirement of having a central network managing node present, leading to a more efficient communications system.

Therefore, Oom does not disclose at least the features of claim 14 discussed above. Accordingly, Oom does not disclose every element of the Applicants' claim 14. In order for a reference to anticipate a claim, the reference must teach each and every element of the claim (MPEP §2131). Therefore, since Oom does not disclose the features recited in independent claim 14, as stated above, it is respectfully submitted that claim 14 patentably distinguishes over Oom, and withdrawal of the §102(e) rejection is earnestly and respectfully solicited.

Claims 15-24 depend from claim 14 and include all of the features of that claim plus additional features which are not disclosed or suggested by Oom. Therefore, it is respectfully requested that claims 15-24 also patentably distinguish over Oom.

Claim 25 of the present application, as amended, recites "at least one low level device at a second hierarchy lower than the first hierarchy, transmitting to said high device, information about a current load situation of the physical resources administered by said at least one low level device for a data transmission to the user equipment, said high level device controlling the load distribution based on the information, and said low level device providing a connection interface to the user equipment." As discussed above in regard to claim 14 of the present application, Oom does not disclose or suggest at least these features of claim 25. Therefore, it is respectfully requested that claim 25 also patentably distinguishes over Oom.

Claim 26 depends from claim 25 and includes all of the features of that claim plus additional features which are not disclosed or suggested by Oom. Therefore, it is respectfully submitted that claim 26 also patentably distinguishes over Oom.

Claim Rejections Under 35 USC §103

In item 6 on page 6 of the Office Action the Examiner rejected claims 24 and 26 under 35 U.S.C. §103(a) as being unpatentable over Oom in view of U.S. Patent Application Publication No. 2002/0193118, issued to Jain et al. (hereinafter referred to as "Jain"). The Applicants respectfully traverse the Examiner's rejections of these claims.

As discussed in the previous section of this Amendment, independent claims 1 and 25 patentably distinguish over Oom. Further, as Jain apparently merely discloses controlling a transmission of data packets in a packet data transmission system, Jain does not cure the deficiencies of Oom in relation to claims 1 and 25. Thus, as claims 24 and 26 depend respectively from claims 1 and 25, and include all of the features of those respective claims plus additional features which are not disclosed or suggested in the cited references, it is respectfully submitted that claims 24 and 26 also patentably distinguish over the cited references.

Summary

In accordance with the foregoing, claims 14 and 25 have been amended. No new matter has been presented. Thus, claims 14-26 remain pending and under consideration.

There being no further outstanding objections or rejections, it is respectfully submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 01/16/07

By: Thomas L. Jones  
Thomas L. Jones  
Registration No. 53,908

1201 New York Avenue, NW, 7th Floor  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501